

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Elroy James Thomas,

Civil No. 15-4479 (DWF/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Polk County, Minnesota; Barb Erh, Sheriff of Polk County, Minnesota, in her individual and official capacities; Charles Ryan Curtis, Assistant Polk County Attorney, in his individual and official capacities; Jessen R. Alexander, Assistant Public Defender, in his individual and official capacities; Phillip K. Juve, Sheriff Sergeant of Polk County, Minnesota, in his individual and official capacities; Arielle Sundberg, Probation Agent of Polk County, Minnesota, in her individual and official capacities; and Larayne (Surname Unknown), N.W.R.C.C. staff of Polk County, Minnesota, in her individual and official capacities,

Defendants.

This matter is before the Court upon Plaintiff Elroy James Thomas's ("Plaintiff") objections (Doc. No. 5) to Magistrate Judge Steven E. Rau's January 12, 2016 Report and Recommendation (Doc. No. 4) insofar as it recommends that: (1) this action be dismissed without prejudice; (2) Plaintiff's application to proceed *in forma pauperis* be denied; and (3) Plaintiff be required to pay the unpaid balance of the statutory filing fee for this action (\$350) in the manner prescribed by 28 U.S.C. § 1915(b)(2), and that the Clerk of Court provide notice of this requirement to the authorities at the institution where Plaintiff is confined.

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections. In his objections, Plaintiff reiterates the basis for his Complaint, namely that there were constitutional violations during his prosecution. However, the Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The Court agrees with the Magistrate Judge and concludes that Plaintiff's objections offer no basis for a departure from the Magistrate Judge's recommendations.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Elroy James Thomas's objections (Doc. No. [5]) to Magistrate Judge Steven E. Rau's January 12, 2016 Report and Recommendation are

OVERRULED.

2. Magistrate Judge Steven E. Rau's January 12, 2016 Report and Recommendation (Doc. No. [4]) is **ADOPTED**.

3. This action is **DISMISSED WITHOUT PREJUDICE**.

4. Plaintiff Elroy James Thomas's application to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED**.

5. Plaintiff Elroy James Thomas is required to pay the unpaid balance of the statutory filing fee for this action (\$350) in the manner prescribed by 28 U.S.C. § 1915(b)(2), and that the Clerk of Court provide notice of this requirement to the authorities at the institution where Plaintiff is confined.

Dated: March 4, 2016

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge